

ENTERED

December 19, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL ACTION No. H-11-454-3
v.	§	
	§	CIVIL ACTION No. H-16-2213
JURAN DUANE MOORE	§	

MEMORANDUM OPINION AND ORDER

Defendant Juran Duane Moore, a federal inmate proceeding *pro se*, filed a section 2255 motion to vacate, set aside, or correct his sentence. (Docket Entry No. 195.) The Government filed a motion for summary judgment (Docket Entry No. 212), to which Defendant filed a response (Docket Entry No. 214).

Defendant argues in his section 2255 motion that he is entitled to re-sentencing under *Johnson v. United States*, ___ U.S. ___, 135 S. Ct. 2551 (2015). In *Johnson*, the Supreme Court held that the Armed Career Criminal Act’s residual clause is unconstitutionally vague. 135 S. Ct. at 2563. The Court explicitly stated that its holding “d[id] not call into question . . . the remainder of the Act’s definition of a violent felony.” *Id.*


As correctly argued by the Government, the only clause that was deemed unconstitutional by *Johnson* was the residual clause in the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B)(ii). Defendant was not convicted or sentenced under that statute. Rather, he was convicted and sentenced for conspiracy to possess a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. §§ 924(O) and (c)(1)(A)(i). Defendant

fails to show that *Johnson* provides any basis for habeas relief in the instant case, either substantively or as to commencement of the one-year federal statute of limitations.

The Government's motion for summary judgment (Docket Entry No. 212) is GRANTED and Defendant's section 2255 motion (Docket Entry No. 195) is DISMISSED WITH PREJUDICE. A certificate of appealability is DENIED.

Civil Action No. H-16-2213 is ORDERED ADMINISTRATIVELY CLOSED.

Signed at Houston, Texas on December 19, 2016.



Gray H. Miller
United States District Judge